

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ESTHER RIVERA-CRUZ,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Civil No. 07-2248 (ADC)

ORDER ADOPTING REPORT AND RECOMMENDATION

I. Procedural Background

On February 8, 2008, plaintiff filed a complaint seeking a review of the Commissioner of Social Security's decision to deny her application for disability insurance benefits under Title II of the Social Security Act. **Docket No. 3.** On March 18, 2008, the Clerk of Court issued summons for the Commissioner of Social Security, the Assistant United States Attorney, and the United States Attorney General. **Docket No. 6.** The court referred the matter to a Magistrate-Judge for a Report and Recommendation on March 19, 2008. **Docket No. 7.** On March 20, 2008, the case was randomly assigned to Magistrate-Judge Marcos E. López ("Magistrate-Judge"). **Docket No. 8.** On September 22, 2008, the Magistrate-Judge issued an order directing plaintiff to show cause by September 30, 2008, why her complaint should not be dismissed for failure to serve summons within the term provided by Fed. R. Civ. P. 4(m). **Docket No. 9.** The Magistrate-Judge warned that failure to comply would result in the dismissal without prejudice of plaintiff's complaint. *Id.* Plaintiff failed to comply with said order. Accordingly, on October 1, 2008, the Magistrate-Judge issued a Report and Recommendation ("R & R") wherein he recommended that the court dismiss plaintiff's complaint without prejudice for failure to comply with the court's order, and for failure to properly, and timely, serve the summons. **Docket No. 10**

II. Standard of Review

A district court may refer pending motions to a magistrate-judge for a report and

recommendation. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); L. Civ. R. 72(a). Any party adversely affected by the recommendation issued may file written objections within ten (10) days of being served with the report and recommendation. 28 U.S.C. § 636(b)(1). However, “[a]bsent objection by the plaintiffs, [a] district court ha[s] a right to assume that [a party] agree[s] to the magistrate’s recommendation.” *Templeman v. Chris Craft Corp.*, 770 F.2d 245, 247 (1st Cir. 1985), *cert. denied*, 474 U.S. 1021 (1985). Accordingly, absent a proper objection, the court need only satisfy itself that there is no plain error in order to accept an unopposed Report and Recommendation. *Pellot-Bermudez v. U.S.*, Civ. No. 04-1702 (DRD), 2006 WL 3007480, *2 (D.P.R. Sept. 22, 2006).

III. Discussion

Upon review of the R & R, the court finds no reason to depart from the Magistrate-Judge’s recommendations. More so, up to this date, plaintiff has failed to respond to the Magistrate-Judge’s Report and Recommendations.¹ Accordingly, the court **ADOPTS** the R & R in full (**Docket No. 10**), thereby **DISMISSING WITHOUT PREJUDICE** plaintiff’s complaint (**Docket No. 3**).

SO ORDERED.

At San Juan, Puerto Rico, on this 20th day of November, 2008.

S/AIDA M. DELGADO-COLON
United States District Judge

¹ Objections to the R & R were due on October 20, 2008. Docket No. 10.